

RE: ARTICLE 13: HUMAN SERVICES

April 8, 2021

Dear Chairman Abney and Members of the House Finance Committee:

We are writing in support of the criminal justice-related provisions in Article 13 of the Governor's proposed FY 2022 budget Relating to Human Services. As advocates for justice reform efforts that promote fairness and equity and reduce Rhode Island's use of incarceration, we were particularly pleased by the proposals discussed below. We also believe that some of the proposed reforms could have been broader in scope, and we have noted those instances below. We look forward, however, to continuing to work with the Governor and the General Assembly to advance even bolder reforms that align with national trends, best practices, and a more equitable approach to criminal justice.

Bail Prior to Probation Revocation Hearings

Section 1 seeks to end the common practice of holding without bail the vast majority of people being charged with probation violations, even if the charges are for a technical violation (not a new crime), or for a non-violent crime.

Holding people who pose no serious threat to public safety at the ACI does nothing but disrupt their employment, families, access to treatment and recovery, and attempts to find stability in the community. The budget article reserves the tool of holding a defendant without bail on a probation violation only when they are being charged with a new crime of violence, or a charge involving domestic violence or driving under the influence. It also gives the Department of Corrections the discretion to resolve technical violations without a court appearance.

Parole Opportunities for Juveniles and Young Adults

Sections 2 and 3 address parole consideration for people convicted of serious crimes committed when they were minors. Section 2 instructs the parole board to consider the "diminished culpability" of juveniles, as well as the developmental and environmental circumstances of the juvenile at the time of the crime. Section 3 also expands parole eligibility for people convicted with crimes committed at age 22 and younger, allowing them to become eligible for parole consideration after 10 years. Both of these proposals acknowledge that, in the words of Parole Board chairwoman Laura Pisaturo, "adolescents have a unique propensity for rehabilitation and are able to successfully reintegrate into the community after maturity and growth."

Discretionary Warrants for Technical Parole Violations

Section 3 also addresses parole violations, and reserves the automatic issuance of a warrant for violations that constitute a new criminal charge. It gives the Chair of the Parole Board the discretion to issue or not issue warrants if the violation is a technical

violation, which will reduce the number of people incarcerated for technical violations of parole.

Probation and Parole Compliance Credits

Section 3 and Section 7 expand the concept of “good time” to parole and probation, which has been previously recommended as part of the state’s Justice Reinvestment initiatives, but not yet implemented. These sections will allow people on parole, and those on probation after three years, to receive “earned compliance days” off their probation and parole terms for every month they do not receive a probation violation. People on parole are eligible to receive 5 earned compliance days per month, and people on probation can receive 10 days per month. Given the disproportionate probation rate among Black Rhode Islanders, this is a key racial equity issue.

While we strongly support the implementation of parole and probation compliance credits, we believe that people on probation should be able to start earning compliance time at the start of their sentences. We already know that Rhode Island’s probation sentences are far longer than the national average (three times longer, in fact, for felony probation sentences), and that likelihood of recidivism decreases substantially over time.

This evidence indicates that we should be taking a far more aggressive approach to be reducing probation and parole time than is reflected in this proposal.

Similar Massachusetts law provides for up to 15 days of earned compliance for people on parole, at the discretion of the Parole Board, as opposed to the 5 proposed by this article. This is less than the good time available to people while in prison, which continues to disincentivize taking parole.

Massachusetts also has very similar legislation that provides for five days of earned compliance after one year on probation. Rhode Island, with its even higher rates of probation, should have a policy at least as strong as Massachusetts. The average probation length in Rhode Island is just over three years. Representative Felix introduced House Bill H6145, which would more closely mirror the Massachusetts laws. This bill has the co-sponsorship of Chairman Craven as well as many other members of the House. We hope that the House will look closely at which of these approaches would best accomplish the intended goals of these reforms.

Community Confinement Eligibility

Section 7 also expands eligibility for community confinement from individuals within six months of release, to those within one year of release. This section gives the Director of the Department of Corrections greater discretion to release individuals into community confinement who are nearing their release dates and have served a majority of their sentences.

The COVID crisis demonstrated that the Director may, from time to time, need to reduce the number of incarcerated individuals in physical custody of the ACI. We would support broadening further the eligibility criteria to give the Director greater discretion in case of a future public health, climate, or infrastructural emergency.

Medical and Geriatric Parole

Section 4 clarifies the clinical definitions of eligibility of medical parole, and expands the medical parole statute to include a geriatric provision. Geriatric parole would make individuals who are 65 or older and suffer from functional impairment, infirmity, or illness to be eligible for parole consideration. Given that older incarcerated individuals are at significantly decreased risk of recidivism and often need significant long-term medical care, this would allow some individuals to be safely released to a more appropriate community/medical setting. Geriatric parole is a common-sense reform, and we would support a decrease in the eligibility age from the current proposal to 55 or 60.

All of these proposals are common-sense, fiscally responsible, and aligned with the justice reinvestment framework that the state has been championing for years. These reforms will reduce the number of people incarcerated at the ACI with no additional risk to public safety, and they take another step toward reducing the state's still oversized probation population, while also reducing the burden of technical probation violations on the lives of justice-involved Rhode Islanders. We appreciate these steps in the right direction and applaud the Governor for recognizing the hard work of advocates in this area and building on previous successes.

Thank you for your consideration,

Center for Health and Justice Transformation
Direct Action for Rights and Equality
OpenDoors
Project Weber/Renew
Rhode Island Center for Justice
RI ACLU
Substance Use, Prevention, Education, and Recovery PAC